

REMARKS

Turning to the allowable and allowed claims first, claim 5, among others, has been objected to as being dependent upon a rejected base claim but has been indicated to be allowable "if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Claim 5 has been rewritten in independent form as new claim 21 and thus should be allowable. The allowance of claims 17-20 is also gratefully acknowledged.

Turning to the rejections on prior art, claims 1, 2 and 7 have been rejected under 35 USC 102(b) as being "anticipated by" the newly cited Dailey et al patent while claims 1, 2, 7, 8, 11 and 12 have been rejected under 35 USC 102(b) as being "anticipated by" the newly cited Myers patent. In order to expedite the prosecution, both independent claims 1 and 12 have been amended so as to more clearly define over the cited references.

Considering the amendments made to claims 1 and 12, claim 1 has been amended to include the subject matter of claim 11 and this subject matter has been recited in a manner so as to more clearly distinguish over the references. More specifically, in amended claim 1, the cups and legs of the claimed device are recited as being of a shape permitting stacking of said device on a further said device such that the cup of said device is disposed in the corresponding cup of the further said device and the legs of said device are disposed on the corresponding legs of the further said device. Claim 12 has been amended to recite that the legs of the device include channels therein and that the vessel and the legs are of such a shape that said device can be stacked on a further said device with the cup of said device being received in the corresponding cup of the further said device and the channels of the legs of said device being received in the corresponding channels of the legs of the further said device.

Turning to the cited references, and focusing on the issue of the stackability of the devices of the present invention, the Examiner has pointed out that "claiming a stackable device is narrative, therefore, many references can be found that would read on that information (from the broadest interpretation)." The Examiner also states that the Myers patent "shows a rain gauge that can stacked or placed upon another gauge with the same characteristics and features."

Considering the Examiner's arguments, it is respectfully submitted that these arguments do not apply to claims 1 and 12 as amended. While it would be possible to insert part of the cup portion of the Myers rain gauge in the cup portion of a second such rain gauge, the legs 24 of the Myers device are clearly not stackable as claimed, i.e., are not "disposed on the corresponding legs of the further said device" as claimed in amended claim 1, or "received in the corresponding channels of the legs of the further said device" as claimed in amended claim 12. In fact, it would appear that the construction of the Myers rain gauge would prevent the legs of two stacked gauges from even contacting each other in that the presence of flanges 19 and 20 would limit to a very small amount the portion of the cup 14 that could be received in a corresponding cup of the gauge on which the first gauge is stacked. It is worth noting that the stackable feature of the present invention is important not only, for example, in enabling efficient storage of multiple devices but is also important in transporting the devices in a principal application thereof, wherein large numbers of the devices are taken into the field and spread out over a wide area in order to measure sprinkler performance. Further, it is also important to note that the legs of the Myers patent are not integral with the rest of the gauge structure, as is claimed in claims 1 and 12. In fact, the non-integral nature of the legs is a key feature of the Myers rain gauge in that this construction is used to permit tilting of the gauge. Thus, it is respectfully submitted that claims 1 and 12, as amended, patentably define over the Myers patent.

It is noted for the sake of completeness, that the Dailey et al patent does not impact on the allowability of amended claims 1 and 12, in that, inter alia, the patent was not used to reject claim 11 (now incorporated into claim 1) nor claim 12, and, more importantly, the patent simply does not disclose the subject matter claimed.

In summary, the indication by the Examiner of the allowability of various claims is much appreciated but, for the reasons set forth above, it is respectfully submitted that claims 1 and 12, as amended, should also be allowed along with the other allowable or allowed claims.

Allowance of the application in its present form is respectfully solicited.

Respectfully submitted,



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Date: August 22, 2003

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